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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. **2010 - 221**

12 **LESLIE D. FOX**
13 **A.K.A. LESLIE DOREEN FOX**
AKA LESLIE D. PERSON
14 **327 Regency Circle #101**
Salinas, California 93906
15 **Registered Nurse License No. 585181**

A C C U S A T I O N

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
22 of Consumer Affairs.

23 2. On or about August 8, 2001, the Board of Registered Nursing issued Registered
24 Nurse License Number 585181 to Leslie D. Fox, also known as Leslie Doreen Fox, also known as
25 Leslie D. Person (Respondent). The Registered Nurse License was in full force and effect at all
26 times relevant to the charges brought herein and will expire on December 31, 2010, unless
27 renewed.

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811(b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

6. Section 2761 of the Code states, in pertinent part, that "[t]he board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

7. Section 2762 of the Code states, in pertinent part, that "[i]n addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use

1 impairs his or her ability to conduct with safety to the public the practice authorized by his or her
2 license.

3 "(c) Be convicted of a criminal offense involving the prescription, consumption, or
4 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
5 or the possession of, or falsification of a record pertaining to, the substances described in
6 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
7 thereof."

8 8. Section 490 of the Code states, in pertinent part, that "[a] board may suspend or
9 revoke a license on the ground that the licensee has been convicted of a crime, if the crime is
10 substantially related to the qualifications, functions, or duties of the business or profession for
11 which the license was issued. A conviction within the meaning of this section means a plea or
12 verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is
13 permitted to take following the establishment of a conviction may be taken when the time for
14 appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order
15 granting probation is made suspending the imposition of sentence, irrespective of a subsequent
16 order under the provisions of Section 1203.4 of the Penal Code."

17 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
18 administrative law judge to direct a licentiate found to have committed a violation or violations of
19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
20 enforcement of the case.

21 FIRST CAUSE FOR DISCIPLINARY ACTION

22 (Substantially Related Conviction)

23 10. Respondent has subjected her registered nurse license to disciplinary action under
24 Sections 2761(f) and 490 of the Code in that she was convicted of a crime substantially related to
25 the qualifications, functions or duties of a registered nurse in that on or about April 12, 2007, in
26 the Superior Court of California, County of Monterey, Case Number MS246589A, entitled *The*
27 *People of the State of California vs. Leslie Doreen Fox*, Respondent was convicted by the court
28 on her plea of nolo contendere of violating Section 23103.5(a) of the Vehicle Code (alcohol

1 related reckless driving), a misdemeanor. Pursuant to said conviction, the imposition of sentence
2 was suspended and Respondent was placed on conditional probation for three (3) years on terms
3 and conditions which included, but were not limited to, the following: do not commit same or
4 similar offense; submit to a chemical test upon request of any Peace Officer; submit to a chemical
5 test and field sobriety tests and complete them; do not drive with any alcohol in system; report
6 and enroll in the county approved program: 12 Hour Wet Reckless Program; and file proof of
7 Completion by May 25, 2007. The factual circumstances surrounding the conviction are as
8 follows:

9 a. On or about June 5, 2006, Respondent, while driving her vehicle on Southbound
10 101 Freeway in Monterey County, was pulled over by California Highway Patrol (CHP) Officer
11 M. Macias, after he observed her driving recklessly by swerving back and forth within the #1 lane
12 of the freeway. Once she was pulled over, CHP Officer M. Macias detected the strong odor of an
13 alcoholic beverage emitting from her breath. After failing the field sobriety tests and refusing to
14 take a chemical test, Respondent was arrested for driving under the influence of alcohol.

15 SECOND CAUSE FOR DISCIPLINARY ACTION

16 (Conviction of a Crime Involving Alcohol)

17 11. The allegations of paragraph 10 are hereby realleged and incorporated by reference
18 as if fully set forth.

19 12. Respondent has subjected her registered nurse license to disciplinary action under
20 Section 2761(a) of the Code on the grounds of unprofessional conduct, as defined by Code
21 section 2762(c), in that on or about April 12, 2007, Respondent was convicted of a crime
22 involving the consumption of alcoholic beverages, as set forth above in paragraph 10.

23 THIRD CAUSE FOR DISCIPLINARY ACTION

24 (Use of Alcohol to a Dangerous Extent)

25 13. The allegations of paragraph 10 are hereby realleged and incorporated by reference
26 as if fully set forth.

14. Respondent has subjected her registered nurse license to disciplinary action under Section 2761(a) of the Code on the grounds of unprofessional conduct, as defined in Code section 2762(b), in that on or about June 5, 2006, Respondent used and was under the influence of alcoholic beverages, while driving a vehicle in Monterey County, California, to an extent dangerous or injurious to herself and the public, as set forth above in paragraph 10.

FOURTH CAUSE FOR DISCIPLINARY ACTION

(Substantially Related Convictions)

15. Respondent has subjected her registered nurse license to disciplinary action under Sections 2761(f) and 490 of the Code in that she was convicted of crimes substantially related to the qualifications, functions or duties of a registered nurse in that on or about April 19, 2009, in the Superior Court of California, County of Santa Cruz, Case Number M45677, entitled *The People of the State of California vs. Leslie Doreen Fox*, Respondent was convicted by the court of violating Section 23152(a) of the Vehicle Code (driving under the influence of alcohol), a misdemeanor, and Section 23152(b) of the Vehicle Code (driving with a blood alcohol content of .08% and more), a misdemeanor. Pursuant to said conviction, the imposition of sentence was suspended and Respondent was placed on probation for five years upon terms and conditions, which included, but were not limited to, the following: obey all laws; serve 45 days in County Jail, with credit for 1 day, with work release recommended; pay a fine of \$2,423.00; submit to and complete a chemical test if stopped/arrested for driving under the influence; and enroll in and complete Multiple Offense Driving Program in Monterey County. The factual circumstances surrounding said conviction are as follows:

a. On or about August 26, 2008, in Santa Cruz County, California, Respondent was pulled over by CHP Officer Brad W. Eacker, after he observed Respondent driving her vehicle, a 2006 Scion, twenty miles above the speed limit and erratically crossing over the solid white lines. Once pulled over, CHP Officer Eacker smelled the odor of an alcoholic beverage coming from within the Scion and observed the driver's bloodshot eyes. Respondent advised the officer that she worked as a nurse for Salinas State Prison. Thereafter, Respondent performed the field

1 sobriety tests poorly and took a breath sample, which showed her blood alcohol content to be .176
2 percent.

3 FIFTH CAUSE FOR DISCIPLINARY ACTION

4 (Conviction of a Crime Involving Alcohol)

5 16. The allegations of paragraph 15 are hereby realleged and incorporated by reference
6 as if fully set forth.

7 17. Respondent has subjected her registered nurse license to disciplinary action under
8 Section 2761(a) of the Code on the grounds of unprofessional conduct, as defined by Code
9 section 2762(c), in that on or about April 19, 2009, Respondent was convicted of a crime
10 involving the consumption of alcoholic beverages, as set forth above in paragraph 15.

11 SIXTH CAUSE FOR DISCIPLINARY ACTION

12 (Use of Alcohol to a Dangerous Extent)

13 18. The allegations of paragraph 15 are hereby realleged and incorporated by reference
14 as if fully set forth.

15 19. Respondent has subjected her registered nurse license to disciplinary action under
16 Section 2761(a) of the Code on the grounds of unprofessional conduct, as defined in Code section
17 2762(b), in that on or about August 28, 2008, Respondent used and was under the influence of
18 alcoholic beverages, while driving a vehicle in Santa Cruz County, California, to an extent
19 dangerous or injurious to herself and the public, as set forth above in paragraph 15.

20 PRAYER

21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Board of Registered Nursing issue a decision:

23 1. Revoking or suspending Registered Nurse License Number 585181, issued to Leslie
24 D. Fox, also known as Leslie Doreen Fox, also known as Leslie D. Person (Respondent);
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27
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1 2. Ordering Respondent to pay the Board of Registered Nursing the reasonable costs of
2 the investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3; and

4 3. Taking such other and further action as deemed necessary and proper.

5
6 DATED:

10/21/09

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

13 SF2009404858
14 CR: 10/05/09